

REMARKS

Claims 1-25 are pending in the application, of which claims 1, 15, 23, and 24 are independent. Claims 2, 9, 16, and 25 have been canceled. Favorable reconsideration and further examination are respectfully requested.

Claims 1-6, 15-18, and 23-28 were rejected under 35 U.S.C. 102(b) as being anticipated by *Kalkunte et al.* (5,859,980). Claims 1, 4-6, 14-15, 18, 22, 24, and 27-28 were rejected under 35 U.S.C. 102(e) as being anticipated by *Kuo et al.* (6,105,079). Claims 10 and 31 were rejected under 35 U.S.C. 103(a) as being anticipated by *Kalkunte et al.* (5,859,980) in view of *Dixon et al.* (4,344,132).

The applicant has amended claim 1 to include “comparing a data transmission rate associated with said sending network to a data receiving rate associated with a receiving network.” As amended, claim 1 distinguishes over *Kalkunte*.

Kalkunte calculates a total removal time (t_r) and total fill time (t_p) according to the equations shown in col. 5, lines 35 and 41 respectively. In particular, *Kalkunte* teaches a system in which “[a]fter calculating the total time to fill the FIFO 32 with the packet (t_p) and the total time to remove the packet from FIFO 32 (t_r) a comparison is made in step 64 to determine whether the total time to remove (t_r) is greater than or equal to the total time to fill the FIFO (t_p).”¹

¹ *Kalkunte*, col. 5, lines 44-48.

Calculating and comparing the total removal time (t_r) and total fill time (t_p) is substantially different from “comparing a data transmission rate associated with said sending network to a data receiving rate associated with a receiving network” as recited in the applicant’s claim 1. Thus, *Kalkunte* fails to describe or suggest the invention of the applicant’s amended claim 1.

Kalkunte does know about the data transmission rate and receiving rate. In fact, *Kalkunte* uses the data transmission rate and receiving rate to calculate total removal time (t_r) and total fill time (t_p). However, *Kalkunte* compares the total removal time (t_r) and total fill time (t_p).

Kalkunte does not compare the data transmission rate and the receiving rate. Therefore, *Kalkunte* does disclose comparing the data transmission rate to the receiving rate. Nor does *Kalkunte* suggest such a comparison. By comparing the data transmission rate to the receiving rate, applicant avoids the computationally intensive task of determining the total removal time (t_r) and total fill time (t_p).

Kou describes a system in which long bit comparison results are generated based on a comparison of the length of a frame to a threshold value. It does not depend on the data rates. In *Kou* the transmission can begin either before the entire frame is written or after the entire frame is written. The choice of when to begin transmission is based on the length of the frame (see steps 112 and 114 of FIG. 6). *Kou* does not describe a system in which the onset of transmission depends on a comparison between the data transmission rate to the receiving rate. Thus, *Kou* fails to describe or suggest a system that includes “comparing a data transmission rate associated

with said sending network to a data transmission rate associated with a receiving network” as recited in the applicant’s amended claim 1.

Claims 2-14 are dependent on claim 1 and are patentable for at least the same reasons as claim 1.

Claims 15, 23, and 24 include similar limitations to claim 1 and are patentable for at least the same reasons as claim 1. Claims 16-22 and 24-35 are dependent on claims 15 and 24 respectively and are patentable for at least the same reasons as the claims on which they depend.

That the applicant has declined to address certain comments of the examiner does not mean that the applicant agrees with those comments. Moreover, that the applicant has asserted certain grounds for the patentability of a claim does not negate the existence of other grounds for patentability of that claim or other claims. Applicant amends the claims only to expedite prosecution of this application. Accordingly, these amendments are not meant to be an admission of unpatentability of the originally filed claims.

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Respectfully submitted,

Date: _____

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